

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

KREATIO SOFTWARE PRIVATE
LIMITED,

Plaintiff,

v.

INTERNATIONAL DATA GROUP, INC.,

Defendant.

CASE NO.:

**COMPLAINT FOR COPYRIGHT INFRINGEMENT AND
MISAPPROPRIATION OF TRADE SECRETS
(INJUNCTIVE RELIEF DEMANDED)**

The plaintiff Kreatio Software Private Limited (“Kreatio”) by and through its undersigned counsel, brings this Complaint against the defendant International Data Group, Inc. (“IDG”) for damages and injunctive relief, and in support thereof states as follows:

JURISDICTION AND VENUE

1. This is an action arising under the Copyright Act, 17 U.S.C. § 501 and the Economic Espionage Act of 1996 as amended by the Defend Trade Secrets Act of 2016, 18 U.S.C. § 1836(b).

2. This Court has subject matter jurisdiction over these claims pursuant 15 U.S.C. § 1121, and 28 U.S.C. §§ 1331, 1338(a), and 1367.

3. IDG is subject to personal jurisdiction in Massachusetts.

4. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, IDG engaged in

infringement in this district, IDG resides in this district, and IDG is subject to personal jurisdiction in this district.

PARTIES

5. Kreatio is an entity formed under the laws of the nation of India with its principal place of business at No. 53, 54 & 77, 78, Old Mangammana Palya Road, Muniswamappa Layout, Hosur Road, Bangalore, 560068, Karnataka, INDIA.

6. IDG is a Corporation, with its principal place of business at 140 Kendrick Street, Building B, Needham, MA 02494, and can be served by serving its Registered Agent, Corporation Service Company, 84 State Street, Boston, MA 02109.

KREATIO'S HERMES SOFTWARE

7. In 2018, Kreatio created software entitled "Kreatio Hermes Application Programming Interface Version 2018" (herein after referenced as "Kreatio Hermes").

8. Kreatio Hermes is an original work of authorship, embodying copyrightable subject matter, subject to the full protection of the United States copyright laws.

9. Kreatio registered Kreatio Hermes with the Register of Copyrights on December 30, 2022 and was assigned the registration number TXu 2-349-539. The Certificate of Registration is attached hereto as Exhibit 1.

10. Kreatio Hermes is a GDPR compliant software system for Demand Generation and Data Services.

11. Kreatio Hermes, and the digital information contained within Kreatio Hermes, is a compilation and program that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

12. The compilation of digital information contained within Kreatio Hermes is a trade secret of Kreatio.

13. Kreatio Hermes is licensed to users pursuant to a license agreement.

14. At all relevant times, the license agreement that accompanied Kreatio Hermes provided, among other things, that: a) Kreatio Hermes constitutes Kreatio's valuable trade secrets and contains confidential and trade secret material as well as know-how and other intellectual property rights (whether or not any rights are registered or pending or otherwise) belonging to Kreatio; b) that the confidential and trade secret material of Kreatio shall be and shall remain the sole property of Kreatio, and no title or intellectual property rights in the confidential and trade secret material or in any modification or extension thereof shall pass to the user; c) that the user agrees to use Kreatio's confidential and trade secret material for the limited purpose as specified in Kreatio's license agreement; d) that the user will not transfer, modify, adapt, merge, translate, reverse engineer, de-compile, disassemble, decrypt, or create derivative works based on Kreatio's Hermes software; e) that the user will not remove or hide any copyright notice or proprietary notices included in Kreatio Hermes; f) that the user will not copy or duplicate any features, functions or graphics of Kreatio Hermes or create, build, or reproduce similar or competitive software to Kreatio Hermes; and g) that the user will not take any copies of Kreatio Hermes without prior written agreement of Kreatio.

15. Kreatio invested substantial time, effort, and financial resources creating Kreatio Hermes and promoting it in interstate commerce to digital publishers.

INFRINGEMENT AND TRADE SECRET MISAPPROPRIATION BY IDG

16. IDG is a privately held internet publishing company.

17. IDG earns significant revenue each year from Demand Generation and Data Services.

18. IDG's Demand Generation and Data Services business is global with operations in 147 countries.

19. IDG's global Demand Generation and Data Services business is subject to data privacy laws and regulations.

20. Kreatio is an innovative software development and service provider company that focuses on creating software for digital publishing companies like IDG.

21. Kreatio's software applications are its core assets and embody a substantial investment in time and money.

22. One of Kreatio's software applications is Kreatio Hermes.

23. Another of Kreatio's software applications is Kreatio OneReg.

24. Kreatio OneReg creates dynamic registration forms for Demand generation and Data Services allowing the storage of leads in a single place across brands.

25. Both Kreatio Hermes and Kreatio OneReg are offered on a Software as a Service (SAAS) basis.

26. Kreatio Hermes and Kreatio OneReg can interoperate.

27. IDG has never been licensed to copy, modify or create derivative works of Kreatio Hermes or Kreatio OneReg.

28. IDG was previously a customer of Kreatio OneReg under license to use Kreatio OneReg on a SAAS basis.

29. In 2017, IDG was concerned that it would not meet compliance deadlines for GDPR data privacy laws and regulations.

30. IDG began working on its own GDPR compliant software system for Demand Generation and Data Services.

31. IDG fell behind in developing its own GDPR compliant software system.

32. In or about the period from November to December of 2017, concerned that it would not meet GDPR compliance deadlines, IDG approached Kreatio about using Kreatio's GDPR compliant software system Kreatio Hermes.

33. In May of 2018, at IDG's request, IDG agreed to license Kreatio Hermes from Kreatio on a monthly basis on the same terms as Kreatio OneReg.

34. In June of 2018, IDG requested access to a read only replica of Kreatio Hermes for IDG's use in troubleshooting.

35. At IDG's request, for a period of three weeks, Kreatio provided IDG with access to a copy of a "black box" of Kreatio Hermes for troubleshooting only on the explicit condition that IDG not develop any software based on Kreatio Hermes.

36. IDG agreed to Kreatio's terms for access to Kreatio Hermes including not to develop its own software based on Kreatio Hermes.

37. In March of 2020, IDG terminated its use of Kreatio Hermes effective August of 2020.

38. Subsequently, Kreatio learned that during the period from 2018 through 2020, IDG developed its own GDPR compliant software system by copying and creating a derivative work of Kreatio Hermes.

39. Unbeknownst to Kreatio, IDG obtained access to the Kreatio Hermes system in violation of IDG's agreement with Kreatio.

40. IDG obtained access to Kreatio's Hermes system by improper means and under false pretenses.

41. IDG exceeded their authorized access to Kreatio's Hermes system without permission or license from Kreatio.

42. Kreatio knew that Kreatio Hermes was a trade secret of Kreatio.

43. IDG copied and created derivative works from Kreatio Hermes.

44. IDG copied Kreatio's copyrighted work without Kreatio's permission.

45. After IDG copied and created derivative works from Kreatio Hermes, IDG made further copies and distributed the derivative work as part of its business and to earn profits from Demand generation and Data Services .

46. Kreatio notified IDG of the allegations set forth herein.

47. To date, IDG has failed to resolve the claims against it.

48. Kreatio has been harmed.

49. The harm to Kreatio is irreparable.

COUNT I
COPYRIGHT INFRINGEMENT

50. Kreatio incorporates the allegations of paragraphs 1 through 49 of this Complaint as if fully set forth herein.

51. Kreatio owns a valid copyright in the work at issue in this case.

52. Kreatio registered the work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

53. IDG copied, made derivative works, and distributed the work at issue in this case without Kreatio's authorization in violation of 17 U.S.C. § §501 *et seq.*

54. IDG's acts were willful.

55. Kreatio has been damaged as result of IDG's unauthorized use of the work.

56. The harm caused to Kreatio has been irreparable.

COUNT II

**VIOLATION OF THE ECONOMIC ESPIONAGE ACT OF 1996 AS AMENDED BY
THE FEDERAL DEFEND TRADE SECRETS ACT OF 2016**

57. Kreatio incorporates the allegations of paragraphs 1 through 56 of this Complaint as if fully set forth herein.

58. The program and the information contained within Kreatio Hermes is a trade secret of Kreatio.

59. Kreatio independently created the Kreatio Hermes program and the information contained within it and took reasonable measures to maintain the secrecy of the Kreatio Hermes program code and the information contained within the program.

60. Upon entry of a suitable protective order, Kreatio will more specifically identify the trade secrets contained within the Kreatio Hermes program with reasonable particularity.

61. IDG knowingly acquired, disclosed, used, or derived Kreatio's trade secrets by improper means and exceeded authorized access without the permission or authority of Kreatio in violation of 18 U.S.C. § 1836.

62. IDG committed acts in furtherance of their acquisition and misappropriation of Kreatio's trade secrets in the United States.

63. Kreatio has been damaged.

64. The harm caused to Kreatio has been irreparable.

COUNT III
MASSACHUSETTS THEFT OF TRADE SECRETS

65. Plaintiff Kreatio incorporates the allegations of Paragraphs 1 through 64 of this Complaint as if fully set forth herein.

66. The program and the compilation of information contained within Kreatio Hermes program is a trade secret of Kreatio.

67. IDG knowingly acquired the compilation of information contained within Kreatio Hermes by improper means without the permission or authority of Kreatio in violation of Chapter 93 of the Massachusetts Laws.

68. Kreatio has been damaged.

69. The harm caused to Kreatio has been irreparable.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff Kreatio Software Private Limited prays for judgment against the Defendant International Data Group, Inc. that:

A. For seizure of all property necessary to prevent the further propagation or dissemination of the Kreatio Hermes software, including but not limited to the computers, internet web servers, software, code, products, articles, items, and any other digital or printed materials of any kind containing the Kreatio Hermes software;

B. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501, 18 U.S.C. § 1836(b), and Massachusetts Laws Chapter 93;

C. Defendant and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from infringing Kreatio Hermes software, including from:

- i. copying, duplicating, distributing, making available, using, displaying or making derivative works of the Kreatio Hermes software;
- ii. engaging in any activity constituting unfair competition with Kreatio or with Kreatio's rights in, or to use, or to exploit, the Kreatio Hermes Software;
- iii. assisting, aiding or abetting another person or business entity in engaging or performing any of the activities enumerated in sub-paragraphs (i)-(iii) above;

D. Defendant and all of its principals, servants, officers, directors, partners, agents, representatives, shareholders, employees, affiliates, affiliated entities, successors, assignees and all others acting in privity, concert or participation with Defendant, who receive actual notice of said order, be required to deliver up all software, code, products, articles, items, and any other digital or printed materials of any kind containing the Hermes Software;

E. Direct Defendant to account for all profits and monies earned from using the Kreatio Hermes software, any derivative works of the Kreatio Hermes software, and derived in any way from its wrongful acts;

F. Award Kreatio actual damages in an amount to be proved at trial and/or as otherwise provided by law;

G. Enter judgment for Kreatio and against IDG:

- i. for the actual damages suffered by Kreatio as a result of the copyright infringement and trade secrets theft complained of herein; and

- ii. for the disgorgement of any profits of IDG that are attributable to IDG's infringement or trade secrets theft not taken into account by an award of actual damages, including in particular but without limitation, the value of all gains, profits, advantages, benefits and consideration derived by IDG since the beginning of its infringement from the sales of their products and services;
- H. Preliminarily and permanently enjoin Defendant, and its affiliated entities, officers, agents and employees and all persons acting in concert with them, during the pendency of this action and permanently thereafter, from infringing the Kreatio Hermes Software;
- I. Award Kreatio prejudgment interest;
- J. Award Kreatio its reasonable attorney fees and costs of suit incurred herein pursuant to the applicable statutes;
- K. Award Kreatio exemplary damages two times the amount of compensatory damages for the willful and malicious misappropriation of Kreatio's trade secrets; and
- L. Plaintiff be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

DATED: February 1, 2023

Respectfully submitted,

/s/ R. Terry Parker
R. Terry Parker, Esquire
BBO# 569008
Jamie N. Hage, Esquire
BBO# 216300
RATH, YOUNG & PIGNATELLI, P.C.
120 Water Street, 2nd Floor
Boston, MA 02109
Email: rtp@rathlaw.com
Email: jnh@rathlaw.com

Tel.: (603) 410-4338

*Counsel for Plaintiff
Kreatio Software Private Limited*